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FISCAL IMPACT STATEMENT

LS 6523

BILL NUMBER: HB 1065

NOTE PREPARED: Dec 10, 2002

BILL AMENDED:

SUBJECT: IURC Penalties and Merger Authority.

FIRST AUTHOR: Rep. Pelath

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill provides that certain transactions involving the reorganization of a public utility require approval by the Indiana Utility Regulatory Commission (IURC) after a hearing.

The bill requires a resulting entity to establish procurement goals relating to minority and women's business enterprises and to report annually to the IURC the percentage of total procurements obtained from minority and women's business enterprises.

The bill allows the IURC to impose a civil penalty of not more than \$50,000 per offense if a public utility: (1) has repeatedly violated a law, an order, or an agreement between the IURC and the public utility; or (2) has severe deficiencies that the public utility has failed to remedy. The bill allows the IURC to impose only existing civil penalties for violations of slamming and cramming laws.

The bill also provides that a public utility may not award a bonus to or increase above the cost of living the compensation of the utility's director during the year after a rate increase.

Effective Date: July 1, 2003.

Explanation of State Expenditures: *Merger Authority:* This bill will increase the authority of the IURC over mergers, reorganizations, or the acquisition of control of certain public utilities. While this bill will expand the IURC's authority over mergers and reorganizations and potentially increase the number of hearings held by the IURC, any impact is expected to be absorbed using resources currently available to the Commission. The Office of the Utility Consumer Counselor (OUCC) would also participate in any utility merger approval proceedings. Any additional cost to the OUCC is also expected to be covered using existing

personnel and resources.

Minority and Women's Business Enterprises: The bill requires certain utilities that have merged or reorganized to establish certain procurement goals from businesses owned by minorities and women. The IURC would be responsible for developing, maintaining, and certifying a list of businesses owned by minorities and women. This provision is expected to increase the administrative cost of the IURC; however, additional costs are expected to be covered using the Commission's available resources.

Fining Authority: The proposal extends the IURC's enforcement power over regulated Indiana utilities, giving the Commission the authority to impose civil penalties against utilities that have repeatedly violated the law, the Commission's orders, or an agreement between the Commission and a public utility. While this bill would make options available to the IURC in the event of a regulated utility's violation or act of noncompliance, it is not expected to cause additional procedures or expenditures for the Commission.

Background on IURC and OUCC Funding: The operating budgets of the IURC and OUCC are funded by regulated utilities operating in Indiana. The IURC determines the rate at which to bill the utilities based on the two agencies' budgets, less reversions, divided by the total amount of gross intra-state operating revenue received by the regulated utilities for the previous fiscal year. Based on this formula, utilities are currently billed approximately 0.10% of their gross intra-state operating revenues to fund the IURC and OUCC. In FY 2002, fees from the utilities and fines generated approximately \$9.5 M.

Secondary Impact: Requiring reorganized utilities to establish goals of obtaining certain percentages of their annual procurements from minority and women's businesses could impact a utility's cost of providing service. If the cost of providing service is higher, the increase would likely be passed on to consumers (including state entities) through higher rates.

Explanation of State Revenues: This bill would authorize the IURC to impose a civil penalty of up to \$50,000 on a utility for each violation or act of noncompliance. Penalties would be deposited into the state General Fund. It is not known in how many instances the IURC would impose monetary penalties.

The penalty provisions authorized by this bill would not change the civil penalties allowed for violations of laws related to slamming and cramming by telecommunication providers. Civil penalties assessed on these violations are deposited in the state General Fund.

Explanation of Local Expenditures: *Secondary Impact:* Local units would be affected by any increases in utility rates.

Explanation of Local Revenues:

State Agencies Affected: Indiana Utility Regulatory Commission; Office of the Utility Consumer Counselor.

Local Agencies Affected:

Information Sources:

Fiscal Analyst: John Parkey, 317-232-9854